

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

TINA CRUZ,

Plaintiff,

v.

Civ. No. 19-726 GJF/SMV

JAMEAL LANDRUM, et al.,

Defendants.

ORDER STAYING CASE

This matter is before the Court upon the parties' notification that one of the named Defendants, Jameal Landrum, will embark in October 2019 on a ten-month military deployment to Africa. *See* ECF 10 (Clerk's Minutes). Both parties agree that the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901-4043 ("SCRA"), entitles Defendant Landrum to a stay of this litigation as against him. *See* § 3932(b)(1) (stating that when military duty prevents a servicemember from appearing "the court may on its own motion . . . stay the action for a period of not less than 90 days"). The remaining two defendants, however, are not entitled of their own right to invoke the SCRA's stay provision. At a telephonic status conference on September 12, 2019, the Court ordered each party to provide it with a short brief on whether the SCRA's stay provision would counsel staying this entire case or only the claims against Defendant Landrum.

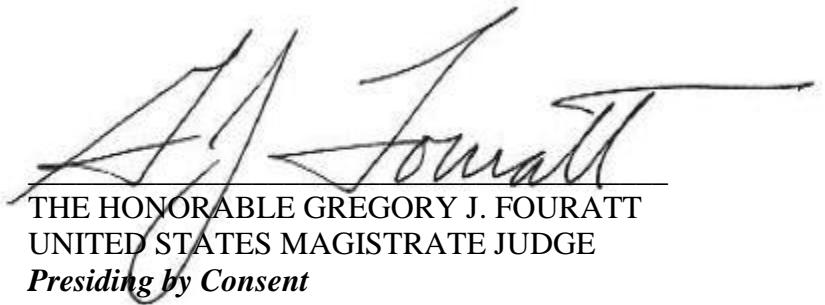
After reviewing the case law cited by the parties, the Court will **STAY** the entire case until Defendant Landrum returns from his deployment. Under the SCRA, "[i]f the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this chapter, the plaintiff may proceed against those other defendants *with the approval of the court.*" § 3935(b) (emphasis added). Defendants Landrum and Roybal are alleged to have committed many of the same torts on the same occasion (e.g., trespassing,

unlawful searches, and failure to intervene), and the claims against the City of Las Cruces are dependent on the liability of these two officers. *See* ECF 1 (Complaint) at 6, 8-10. Consequently, for the sake of efficiency, and to allow Defendants Landrum and Roybal the opportunity to raise qualified immunity defenses if they wish, the Court declines to authorize Plaintiff to proceed against the non-SCRA-invoking Defendants, i.e., Roybal and the City of Las Cruces, while the Court stays the case under 50 U.S.C. § 3932(b).

IT IS THEREFORE ORDERED that the above-captioned cause is **STAYED** in all respects pending Mr. Landrum's return from his military deployment.

IT IS FURTHER ORDERED that Defendants' counsel shall file a notice alerting the Court and Plaintiff's counsel of Defendant Landrum's return as soon as reasonably possible.

SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent